

Tulare County Enforcement Workplan for Fiscal Year 2007/2008

Pesticide Use Enforcement (PUE) Resources and Workload

Personnel

- 1 full-time unlicensed Inspector Trainee
- 6 full-time licensed PUE Inspectors
- 1 Supervising Inspector
- 1 Deputy Agricultural Commissioner/Sealer
- 1 contracted Systems Analyst
- 3 full-time equivalent clerical/data entry positions

Equipment/Facilities

- The Tulare office is equipped with eleven (11) dedicated computer work stations used primarily for permit issuance
- Six (6) District offices with scheduled pesticide office hours for public access
- PUE Inspectors are provided a vehicle for duty use
- All staff have both e-mail and Internet capability.

Responsibilities

- Maintaining more than 2,900 Restricted Materials permits
- Maintaining more than 600 Operator Identification numbers
- Maintaining approximately 2,600 certified Private Applicators
- More than 13,000 Notices of Intent are received and reviewed annually
- Approximately 260 Pest Control Businesses are registered
- Approximately 200 Pest Control Advisors are registered
- Approximately 205 Farm labor Contractors are registered
- More than 50 notifications for structural businesses are completed
- Approximately 190,000 lines of pesticide use are reported
- Regulating pesticide use in more than 600 specified Groundwater Protection Areas
- Tulare County is designated as a Citrus Bee Protection Area by regulation

A. Restricted Materials Permitting

Permit Evaluation

Licensed inspectors issue permits for restricted pesticides to the operator of the property or a designated representative such as a certified employee or pest control business documented with a letter of authorization. Permits are site and pesticide specific and are issued with multi-year validity based on specific criteria. The required information is first entered into the Restricted Materials Management System (RMMS). Once the printed permit has been validated, copies are provided to the applicant for distribution to chemical dealerships. Specific information may be electronically queried using RMMS.

The primary Tulare office is staffed weekdays from 8:00 a.m. to 5:00 p.m. with a licensed inspector capable and qualified to conduct permit issuance and Notice of Intent (NOI) review. Weekend NOI review is scheduled for Saturday afternoons on a rotating basis. The department receives NOI's primarily by fax, but also accepts submission in person and maintains a central drop box at the Tulare office. NOI's are date-stamped upon receipt then checked for validity using RMMS. The specified applicator is contacted immediately if problems are discovered and a denial form is completed to document the situation. District offices are staffed with licensed inspectors for scheduled office hours and are capable of permit and supplement issuance.

All original permits and related documents such as maps, private applicator certificates, and permit supplements are reviewed for errors and omissions in the Tulare office by knowledgeable PUE staff. This activity is completed in a timely manner.

Goals and Objectives

- To assure that the restricted materials permit system protects both people and the environment while allowing for effective pest control
- To keep PUE staff current and knowledgeable with respect to both pesticide products and regulations

Deliverables

- To evaluate and update Tulare County permit conditions for 2008 relative to adverse environmental effects
- To deliver PUE traffic from district offices to the Tulare office in a timely manner
- To conduct Monday morning meetings with PUE staff to discuss areas of concern and to exchange important information
- To conduct periodic district office visits by the PUE Deputy or Supervisor to keep district inspectors current with respect to permit requirements
- To identify errors or omissions in the permit issuance process and correct them through staff training

Site Monitoring Plan

Our commitment is to implement and continue measures that ensure a site monitoring plan which considers pesticide hazards, immediate surroundings, local conditions, fieldwork and cropping patterns, and permittee/licensee compliance history. All pre-application site inspections will be documented on the proper form (PR-ENF-102) and signed by a licensed inspector. Site monitoring will include evaluation of pesticide toxicity and environmental concerns such as residences, sensitive crops, and endangered species.

The department will focus site monitoring efforts in the area of field fumigation. Distance measuring wheels will supplement metal tape measures to verify buffer zones and distances required by regulations or specific permit conditions.

Permit sites associated with previous problems such as pesticide drift or beekill incidents will receive additional focus/inspection from the district inspector familiar with the specifics of the situation. At a minimum this will deliver increased visibility and awareness.

The objective of this plan is to increase compliance and reduce problems on a proactive basis. A decrease in total non-compliances may be an indicator of success if all other factors are equal. In consideration of

pesticide enforcement response regulations, the Tulare County site monitoring plan may be amended as needed.

Goals and Objectives

- To ensure a site monitoring plan that considers pesticide hazards, sensitive sites, local conditions and cropping patterns, fieldworker safety, and compliance history
- To improve site accuracy for NOI's and pesticide use reports submitted by both private and commercial applicators

Deliverables

- PUE staff will arrange and complete an application inspection for all chloropicrin field fumigations and a representative number of application inspections for all other restricted use fumigants
- Pre-application site inspections will be conducted for a majority of NOI's for field fumigations, with particular emphasis on any nearby sensitive sites
- To emphasize pesticide use reporting requirements during continuing education classes in the fall
- To use an RMMS query to identify those permits having no submitted use reports

B. Compliance Monitoring

Comprehensive Inspection Plan

Tulare County PUE personnel acknowledge that effective and comprehensive compliance monitoring is essential to assuring the safety of pesticide handlers, fieldworkers, the public, and the environment. Compliance monitoring will include both agricultural and structural pesticide use and records inspections as well as prompt episode and complaint investigations. A primary responsibility is a fair and consistent

inspection policy with regard to both pesticide label and worker safety requirements. Another responsibility is a timely and appropriate response to public complaint calls and illness investigations. To assist Spanish speaking individuals, the department has two licensed pesticide inspectors who are bilingual English/Spanish.

Posted targets are a critical component of compliance monitoring that will be continued. There will likely be a reduction in the number of various inspections due to less-experienced licensed personnel and fewer available man-hours. The targets are centered around and quantified based on the first three areas found on a Pesticide Regulatory Activities Monthly Report (PR-ENF-046): Use Monitoring Inspections, Pest Control Records Inspections, and Structural Pest Control Inspections. Based on the entire PUE program and our available resources, the following inspection targets are reasonable and deliverable for fiscal year 2007/2008:

Use Monitoring Inspections:

- Pre-application - 5% (minimum) of NOI's
- Application/Property Operator - 30
- Application/Pest Control Business - 25
- Field Fumigation - 15
- Commodity Fumigation - 20
- Field Worker Safety - 35
- Mix-Load/Property Operator - 20
- Mix-Load/Pest Control Business - 15

Pest Control Records Inspections:

- Business Records - 15
- Employee Safety/Business - 15

- Dealer Records - 10
- Advisor Records - 20
- Employee Safety/Grower - 25

Structural Pest Control Inspections:

- Fumigation (Branch 1) - 10
- Application/Mix-Load (Branch 2) - 15
- Business Records - 5
- Employee Safety/Business - 5

District inspectors realize the importance of immediate correction and employer responsibility when non-compliances exist for employee pesticide handlers. Headquarter and Employee Safety inspections will be performed in a timely manner when employee pesticide handlers are found to be in violation of worker safety regulations. This follow-up can deliver improved pesticide handler training and supervision from employers.

Tulare County has generally attempted to perform inspections on a fair basis that adequately represent both agricultural and structural operations. This fiscal year, the PUE workplan will realign targets to direct increased inspections toward the Pest Control Records Inspections and Structural Pest Control Inspections areas.

An estimated 200 or more compliance actions generated from field inspections and records inspections (including pesticide use reports) are reasonably expected. Using proper inspection procedures and pursuing the targets stated above will create a measurable means to monitor overall compliance.

Goals and Objectives

- To improve worker safety follow-up from monitoring inspections

- To conduct timely and complete responses to public complaint calls and illness investigations
- To reduce erroneous and/or incomplete recommendations from licensed Pest Control Advisors

Deliverables

- To complete Employee Safety/Headquarters Records inspection for all violations involving worker safety regulations
- To respond to complaint calls immediately and in a thorough and appropriate manner
- To complete Pest Control Advisors records inspections as described in stated targets

Investigation Response and Reporting Improvement

Tulare County has experienced a variable pattern of both documented complaint calls and illness investigations. Fortunately, the number of illnesses reported has generally decreased for the past several years. The department recognizes that a single incident or episode may seriously impact the workload of the PUE staff and must be prepared for such an event. Working together, the Agricultural Commissioners and the Department of Pesticide Regulation (DPR) attempt to prevent such incidents by conducting quality continuing education and public communication efforts. We must realize that responding to and prioritizing pesticide incidents is inevitable. The department is committed to evaluating our investigation response and reporting, to the use of proper techniques for interviews and evidence collection, and to correctly documenting any relevant findings.

The department maintains a toll-free phone number (1-877-506-1598) which is available in both English and Spanish 24 hours a day 7 days a week. This number may be used to report suspected pesticide drift or misuse. Public outreach efforts by this office have included the distribution of more than 3,500 copies of our flyer titled: “Pesticide Drift...who should you call?” and is available in both English and Spanish. Staff will participate in scheduled events relative to farmworker health and safety. These public outreach

efforts, which are supported by the Tulare County Board of Supervisors, will continue and are certain to increase over time.

PUE staff considers prompt, thorough investigation and complaint response as a critically-important duty. Standard practice is to document information from the initiation of the contact and to immediately assign a district inspector to respond. The entire interview and evidence collection process is critical to the investigation but may often be challenging. Field inspectors maintain digital cameras, sampling supplies and equipment, and have appropriate forms available for immediate use. PUE inspectors will follow the parameters provided in DPR training. Tulare County will commit to deliver rapid and unbiased investigation responses for all incidents.

The department will work for timely initiation and completion of all investigations, whether arising from public complaint or medical report. This effort will result in improved information gathering and consistency. Obviously, factors such as the availability of cooperating involved individuals and prompt, accurate laboratory analysis are critical for success. Communication, information sharing, and clarification with the Enforcement Branch Liaison (EBL) will be a key component of investigation response and reporting improvement. DPR ride-along oversight inspections will be offered with PUE inspectors in Tulare County and will reflect the various handling and inspection opportunities available within the county. Consistent effort will be made to deliver complete and current reports for documentation. It will be emphasized that a written report should completely, correctly, and concisely describe any situation. The written report will contain all information related to the parties involved, location of the site or property, dates of occurrence, and a full description of the incident. Additional supporting evidence including: statements, report of loss, lab results, photographs, etc. will be attached and referenced. The written report will be fact based and have the ability to withstand the closest scrutiny. Reports that meet these criteria provide a valuable tool for compliance history assessment.

Goals and Objectives

- To document investigations with a complete and accurate Pesticide Episode Investigation Report made available to DPR for review

- To improve the reporting of pesticide drift by increasing public outreach efforts (both English and Spanish) in order to reduce pesticide incidents to both people and the environment

Deliverables

- A 120-day timeframe for non-priority investigation completion is reasonable for most situations and will be delivered
- The department will initiate priority episode investigations within two working days and submit a preliminary update to DPR within 15 days
- PUE staff will attend DPR training sessions related to restricted materials and permitting, structural inspections, and advocacy preparation
- Staff will participate in both English and Spanish outreach opportunities such as health fairs and media interviews upon request or as they become available.

C. Enforcement Response

Enforcement Response Evaluation

Ensuring compliance with pesticide label requirements and regulations is a priority with the Tulare County office. To realize the benefit of the regulatory program, we must apply our enforcement authority fairly and consistently. Based on a review of trends for the past three years, we can reasonably expect 25 or more Administrative Civil Penalty actions for fiscal year 2007/2008. These actions are the punitive result of pesticide non-compliance. More experienced district inspectors are typically responsible for actions involving drift and human exposure (Class A) violations. All licensed inspectors are responsible for actions involving problems such as worker safety, pest control business registration and use reporting (Class B and Class C) violations. PUE inspectors understand the difference between compliance actions and enforcement actions.

Tulare County will deliver a fair inspection program that includes compliance/enforcement action when appropriate. The principle that the penalty should fit the non-compliance is paramount. The concept of progressive enforcement will be followed. Special emphasis will be placed on the ability to detect repeat violators through both compliance monitoring and enforcement response. Inspectors must review the documented history available for a permittee/licensee and present that for the previous 24 month period to the Supervisor or Deputy for direction. All Violation Notices generated by use monitoring inspections should be delivered in person when the entity is located in Tulare County. A prepared inspector's narrative with attached supporting documents will be mandatory for all illness investigations and complaint calls that generate Administrative Civil Penalties. The recently-enacted Enforcement Response Regulations (ERR) will be reviewed and followed for all enforcement situations.

The Tulare County Agricultural Commissioner will remain professional and unbiased when completing and delivering enforcement actions to agricultural and structural operators. When appropriate, DPR will be consulted for clarification, direction, and assistance. For serious violations or repeat offenders, Tulare County will work with our Enforcement Branch Liaison (EBL) to identify and discuss more stringent enforcement options such as licensing action or referral to the District Attorney.

In summarizing our overall enforcement response, the ultimate goal is a consistent and appropriate reaction to confirmed violations. Through the entire process communication, credibility, resource allocation, and prioritization are key. Balancing the workload equitably between PUE inspectors and maintaining a team approach to complete the work are critical. Fair and consistent implementation of this workplan is mandatory for regulatory personnel and agencies. Maintaining credibility and respect with regulated individuals and businesses while ensuring compliance with pesticide laws and regulations will result in safe and appropriate pesticide use in Tulare County.

Goals and Objectives

- To continue to improve user compliance with pesticide labels, laws, and regulations

- To apply the concept of progressive, consistent enforcement for violations of pesticide laws and regulations

Deliverables

- The enforcement program will follow the Enforcement Response Regulations to improve uniformity within Tulare County and with other California counties
- Our department will thoroughly review the permittee or licensee's 24-month compliance history to determine appropriate follow-up actions to take
- Compliance or enforcement actions will be taken when appropriate
- The department will communicate with DPR when appropriate to consider referral to District Attorney or licensing action based on specifics of the incident